

Marianne Curtis
(305) 982-4016
mcurtis@bergersingerman.com

September 14, 2022

By ECF and Email

Honorable John P. Cronan
United States District Judge
Southern District of New York
United States Courthouse
New York, NY 10007

Re: *In re Smerling Litigation*
Case No. 1:21-cv-02552-JPC

Dear Judge Cronan:

On behalf of James S. Feltman of Kroll, LLC (the receiver appointed in the above-referenced consolidated action, the “Receiver”), I write regarding today’s filing of an Unopposed Motion to Approve Settlement Agreement and Mutual Release (the “Unopposed Motion”) by the Receiver which seeks this Court’s approval of the *Settlement Agreement and Mutual Release* (the “Agreement”) (21 Civ. 2552, ECF Nos. 222 and 223). Pursuant to FRCP 6(c)(1)(C), the Receiver respectfully requests the Court to consider the Unopposed Motion without notice and an opportunity to be heard or set an expedited hearing scheduling.

As explained more fully in the Unopposed Motion, the relief sought includes the approval of the Court with respect to the Agreement between the Receiver on one side and 3N Outdoor Media, Inc. on the other.

We respectfully submit that an expedited procedure for the Unopposed Motion is appropriate because the relief sought is routine in nature, expedited review will facilitate the Receiver’s ongoing efforts to monetize the assets comprising the Receivership Estate, and the affected creditors have consented to the requested relief.

The Receiver is proceeding by motion, rather than filing an initial pre-motion letter, because of the time sensitivity of the relief sought and given that Citizens Bank, N.A. and Silicon Valley Bank which are the plaintiffs in this consolidated action (the “Consolidated Action”) support the relief requested in the Unopposed Motion.

Defendants JES Global Capital GP III, LLC, JES Global Capital II, L.P., and JES Global Capital GP II, LLC have each failed to appear in this Consolidated Action.

Honorable John P. Cronan
Page 2 of 2

The Receiver is prepared to discuss the Unopposed Motion and any other issues pertaining to the proposed receivership at the hearing to be scheduled by the Court to consider the Unopposed Motion.

We thank Your Honor for Your Honor's consideration of this matter.

Respectfully yours,

/s/ Marianne Curtis

Marianne Curtis

cc: Counsel of record (via ECF)
Other parties listed on the certificate of service (via Federal Express or Email)